

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

No. CR 05-00611 WHA

Plaintiff,

v.

**ORDER DENYING
CERTIFICATE OF
APPEALABILITY**

KURT F. JOHNSON and DALE SCOTT
HEINEMAN,

Defendants.

Defendants Heineman and Johnson have appealed the order denying their request for leave to file a motion for reconsideration raising issues related to previously filed motions to reconsider the order denying their motions to vacate, set aside, or correct their sentences under Section 2255. Pursuant to 28 U.S.C. 2255(d) and Rule 11(a) of the Rules Governing Section 2255 cases, to be entitled to a certificate of appealability, defendants must make a substantial showing that their claims amounted to a denial of their constitutional rights or demonstrate that a reasonable jurist would find this Court's denial of their claims debatable or wrong. *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). As stated in the order denying defendants' motions to vacate, set aside, or correct their sentences under Section 2255, defendants failed to make such a showing. As such, a certificate of appealability for either motion was denied. To the extent another certificate of appealability is sought regarding the order appealed, defendants have failed to make the requisite showing to obtain a certificate of appealability. Thus, a certificate of appealability is **DENIED**.

1 The Clerk shall serve this order on defendants Johnson and Heineman, the government, and the
2 court of appeals.

3
4 **IT IS SO ORDERED.**

5
6 Dated: April 20, 2012.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE